

AMENDED IN SENATE JANUARY 30, 2006

AMENDED IN SENATE JUNE 20, 2005

AMENDED IN SENATE JUNE 6, 2005

AMENDED IN SENATE MAY 24, 2005

AMENDED IN ASSEMBLY APRIL 28, 2005

AMENDED IN ASSEMBLY APRIL 20, 2005

AMENDED IN ASSEMBLY MARCH 17, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 293

Introduced by Assembly ~~Member Maze~~ *Members Maze and Parra*

February 9, 2005

~~An act to amend Section 7197 of, and to add Sections 7196.2 and 7197.5 to, the Business and Professions Code, relating to home inspections. An act to add and repeal Section 17053.19 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 293, as amended, Maze. ~~Home inspections. Income tax credit: qualified medical care professionals.~~

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law.

This bill would authorize a credit against the personal income taxes for each taxable year beginning on or after January 1, ~~2005~~ 2006, and before January 1, ~~2010~~ 2011, in an amount equal to 6.5% of the

amount received by a qualified medical care professional, as defined, for treating Medi-Cal beneficiaries in a qualified county, as defined.

This bill would take effect immediately as a tax levy.

~~Existing law regulates persons who perform home inspections for a fee in connection with a property transfer, as defined. Existing law defines terms related to home inspections, establishes a standard of care for home inspectors, and prohibits certain inspections in which an inspector or the inspector's employer has a financial interest.~~

~~This bill would specify that a home inspector shall be subject to requirements regarding offering an opinion or recommendation concerning the need for structural pest control work.~~

~~The bill would provide that a home inspector may name a seller, real estate broker, or a real estate salesperson as an additional insured in a liability insurance policy.~~

~~The bill would require a home inspector to provide a specified written disclosure to the party on whose behalf the inspection is being performed.~~

~~The bill would make it an unfair business practice for a home inspector or a company that employs home inspectors to fail to make those disclosures or to disclose personal identifying information of a person involved in an inspection.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17053.19 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053.19. (a) For each taxable year beginning on or after
- 4 January 1, 2006, and before January 1, 2011, there shall be
- 5 allowed as a credit against the "net tax," as defined in Section
- 6 17039, an amount equal to 6.5 percent of the amount received by
- 7 a qualified medical care professional for treating Medi-Cal
- 8 beneficiaries in a qualified county.
- 9 (b) For purposes of this section:
- 10 (1) "Medi-Cal" means the California Medical Assistance
- 11 Program created under the Medi-Cal Act set forth in Chapter 7
- 12 (commencing with Section 14000) of Part 3 of Division 9 of the
- 13 Welfare and Institutions Code.

1 (2) “Qualified county” means a county, within California, that
2 meets at least one of the following conditions:

3 (A) At least 25 percent of the population of the county was
4 Medi-Cal beneficiaries in the 2003 calendar year and the
5 unemployment rate was at least 14 percent in the county in the
6 2003 calendar year.

7 (B) The county’s population density was less than five persons
8 per square mile, as reported in the 2000 federal census.

9 (3) “Qualified medical care professional” means a physician
10 or surgeon who practices in orthopedics; general surgery;
11 neurosurgery; ear, nose, and throat; ophthalmology;
12 gastroenterology; cardiology; oncology; endocrinology;
13 pulmonology; or oral surgery in the state, and who meets either
14 of the following conditions:

15 (A) He or she is self-employed and treats Medi-Cal
16 beneficiaries on a fee-for-service basis in a qualified county.

17 (B) He or she is a salaried employee at a qualified health
18 center.

19 (4) “Physician or surgeon” means an individual who is
20 authorized to practice medicine or surgery pursuant to Chapter 5
21 (commencing with Section 2000) of Division 2 of the Business
22 and Professions Code, and who is licensed by the Medical Board
23 of California or the Osteopathic Medical Board.

24 (5) “Qualified health center” means a federally qualified
25 health center or a rural health clinic, as defined in Section 1395x
26 of Title 42 of the United States Code, that is operated in a
27 qualified county.

28 (c) This section shall remain in effect only until January 1,
29 2012, and as of that date is repealed.

30 SEC. 2. This act provides for a tax levy within the meaning of
31 Article IV of the Constitution and shall go into immediate effect.

32 ~~SECTION 1. Section 7196.2 is added to the Business and~~
33 ~~Professions Code, to read:~~

34 ~~7196.2. A person representing himself or herself as a home~~
35 ~~inspector shall be subject to the requirements of subdivision (d)~~
36 ~~of Section 8550.~~

37 ~~SEC. 2. Section 7197 of the Business and Professions Code is~~
38 ~~amended to read:~~

39 ~~7197. (a) It is an unfair business practice for a home~~
40 ~~inspector, a company that employs the inspector, or a company~~

1 that is controlled by a company that also has a financial interest
2 in a company employing a home inspector, to do any of the
3 following:

4 (1) To perform or offer to perform, for an additional fee, any
5 repairs to a structure on which the inspector, or the inspector's
6 company, has prepared a home inspection report in the past 12
7 months.

8 (2) Inspect for a fee any property in which the inspector, or the
9 inspector's company, has any financial interest or any interest in
10 the transfer of the property.

11 (3) To offer or deliver any compensation, inducement, or
12 reward to the owner of the inspected property, the broker, or
13 agent, for the referral of any business to the inspector or the
14 inspection company.

15 (4) Accept an engagement to make an inspection or to prepare
16 a report in which the employment itself or the fee payable for the
17 inspection is contingent upon the conclusions in the report,
18 preestablished findings, or the close of escrow.

19 (5) A home protection company that is affiliated with or that
20 retains the home inspector does not violate this section if it
21 performs repairs pursuant to claims made under the home
22 protection contract.

23 (6) To fail to disclose or misrepresent any item required to be
24 disclosed in Section 7197.5.

25 (7) To disclose personal identifying information, including,
26 but not limited to, the name, address, telephone number, state or
27 federal driver's license number, social security number, or
28 taxpayer identification number, of a buyer, seller, tenant, or
29 others involved in the inspection without the approval of the
30 individual or individuals involved.

31 (b) This section shall not affect the ability of a structural pest
32 control operator to perform repairs pursuant to Section 8505 as a
33 result of a structural pest control inspection.

34 (c) Nothing in this section shall prevent a home inspector from
35 naming a seller, a real estate broker, or a real estate salesperson
36 as an additional insured in a liability insurance policy maintained
37 by the home inspector.

38 SEC. 3. Section 7197.5 is added to the Business and
39 Professions Code, to read:

1 ~~7197.5. As soon as it is commercially feasible and prior to~~
2 ~~commencing a home inspection, a home inspector shall provide a~~
3 ~~written disclosure to the party, or the party's agent, on whose~~
4 ~~behalf the home inspection is being performed that includes all of~~
5 ~~the following:~~

6 ~~(a) Whether the home inspector or the company that employs~~
7 ~~the home inspector maintains professional liability insurance.~~

8 ~~(b) Whether the home inspector or the company that employs~~
9 ~~the home inspector maintains general business liability insurance.~~

10 ~~(c) A statement that includes the approximate number of home~~
11 ~~inspections the home inspector has performed for a fee, the~~
12 ~~number of years of his or her experience as a home inspector, and~~
13 ~~his or her education related to home inspection, specifically~~
14 ~~including the number of educational hours completed and the~~
15 ~~educational facility or facilities he or she attended.~~

16 ~~(d) Whether the home inspector belongs to any professional or~~
17 ~~nonprofit trade associations.~~

18 ~~(e) Whether the home inspector possesses any applicable state~~
19 ~~license related to the home building industry.~~

20 ~~(f) A statement that home inspectors are not required to be~~
21 ~~licensed, registered, or certified pursuant to state law.~~